



March 11, 2004

Ms. Jennifer J. Johnson
Secretary, Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, N.W.
Washington, D.C. 20551

Ref: Docket # R-1176

Dear Ms. Johnson

I am writing on behalf of Mid-States Corporate Credit Union, which represents over a 1,000 credit unions in the states of Illinois, Indiana and Minnesota. Mid-States would like to share some of its comments on the new amended Regulation CC and its commentary to implement the Check Clearing for the 21st Century.

Mid-States and its member credit unions support the implementation of Check 21 and the efficiencies it will bring to financial institutions, however, have some comments on certain aspects of the proposed changes and the examples that are given. I have to outline some our concerns below for your review.

Image Quality – On page 72 it states “A substitute check need not capture other characteristics of the check, such as watermarks, micro-printing, or other physical security features that cannot survive the imaging process, or decorative images, in order to meet the accuracy requirement.” However, the example on the bottom of page 76 states that the bank that presents a substitute check that was derived from a fraudulent original cashier’s check could be liable if the paying bank would have caught the fraudulent item if the original had been presented instead (the original item would have been inspected for security features and likely would have detected the fraud and returned the item before the midnight deadline).

Mid-States feels as though the Federal Reserve is sending conflicting messages to the financial institution as it is stated. If the financial institution must have the “proper procedures” in place for fraudulent items then the Federal Reserve will need to provide better guidelines for financial institutions to determine what really needs to be placed in the so-called ‘proper procedures’.

Section 229.54 Section 7(c)(1) on page 21 states that a bank must provide a re-credit to the consumers account before the end of the 10th business day. Does this time requirement only apply to a re-credit to a consumers account or to all other banks in the processing chain? Mid-States feels that the Federal Reserve needs to clarify this section a little bit farther, there seems to be too much room for individual interpretation. (i.e. Who will be responsible for enforcing the re-credit process? What are the penalties?)

Concerns on the liability for the reconverting bank for late return item due do illegible indorsement – page 70, appendix E, paragraph XXIV.D. The original depository bank indorsement is going to shift when the image is reduced on an IRD. The chances of the original indorsement been covered by subsequent bank indorsement would be very high.

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Mid-States feels there needs to be more clarification on how, when, why the reconverting bank be held liable and who is going to monitor and enforce it?

Requirements and Characteristics of a Substitute Check - The Board requests comment on whether an item that fails to meet any of the other substitute check requirements also should be treated as though it were a substitute check for those limited purposes.

The language is very specific as to a mis-read item but does not place any emphasis on items that are created with poor quality or non MICR ink, causing excessive rejects for the receiving institution. The risk is high that poor quality documents will be created in order to reduce the production cost.

Mid-State feels the Federal Reserve needs to add language to address quality of a Substitute Check and be very, very specific on exactly what the quality standards are and what the should along with the penalties for not adhering to the standards.

Appendix D amendment 229.35– that requires a paying bank and a reconverting bank to places its nine-digit routing number on a substitute check to identify itself. Mid-States feels the Federal Reserve needs to provide the financial institutions better parameters which spell out clearer exactly what is required. Mid-States would like to see the following information: routing transit number, name & date

“Banking day” – supporting or incorporating the term “banking day” in which an office of a bank would be open to the public on any business day. Also the board believes that banking day is an appropriate term when referring to the time limits for a bank to provide a re-credit and make funds available for a re-credit. Mid-States would like to see uniformity amongst UCC, Regulation CC and the Check 21 Act. As well, Mid-States would like to see further clarification on legal impact on a financial institution.

Warranty 229.52(a)(2) – this addresses multiple payment request for the same check, and this warranty is given by each bank handling the substitute check, an electronic representation of a substitute check, or a check create form a electronic representation. A bank that transfer, present, or return a substitute check, even if the demand for duplicative payment results from a fraudulent substitute check about which the warranting bank had no knowledge, give this warranty. How is this different than to draft copy in lieu of? Mid-States would like to see further clarification on this issue in the final version of Regulation CC.

Mid-States would like to thank you for this opportunity to share its views on the proposed rule to amend Regulation CC. Should you have any questions or require additional information, please call me at 317.578.5914.

Sincerely,

Terrence L. Faurote
Vice President Correspondent Services